

China has agreed to match U.S. policy targeting synthetic fentanyl, but if we lose the authority to rapidly detect and outlaw fentanyl analogs, we lose any footing that we have with the Chinese Government in preventing fentanyl from entering our country. This scheduling order saves lives because China reciprocates. China's motive in scheduling fentanyl analogs isn't necessarily altruistic; it is because the United States is doing it. So if we stop, China stops, and if that happens, fentanyl analogs will surely flood our communities.

We can prevent this, so we must prevent it. With the ongoing increase in overdose deaths, we must continue to support efforts to curb fentanyl abuse. This means we must extend the classwide scheduling order that otherwise expires on May 6, 23 days away.

Now this, I think—I am pretty sure—isn't a political or a partisan issue. Senators from both sides of the aisle support efforts to schedule fentanyl substances. Members of the Biden administration have also indicated that addressing fentanyl is urgent. In fact, during his confirmation hearing before the Senate Judiciary Committee, Attorney General Garland stated that the constantly evolving nature of fentanyl analogs is—and I want to quote the new Attorney General—"a problem both for detection as well as . . . enforcement" and that he is "in favor of doing something either by scheduling or legislation" to proactively address the problem of fentanyl-related substances. Likewise, both law enforcement and substance abuse prevention groups believe Congress must act in scheduling fentanyl.

It is up to Congress to pass legislation to extend the fentanyl scheduling order. So I urge all of my colleagues to join me and a lot of other Republicans and Democrats in the fight against fentanyl. In the midst of an opioid epidemic, a polydrug crisis, and a COVID-19 pandemic, how can we allow for any additional death and destruction? The clock is ticking. We are closing in on the deadline of May 6.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent that all time be yielded back on both sides on the Sherman nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON SHERMAN NOMINATION

All postcloture time has expired.

The question is, Will the Senate advise and consent to the Sherman nomination?

Mr. CORNYN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from South Dakota (Mr. ROUNDS) and the Senator from North Carolina (Mr. TILLIS).

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 146 Ex.]

YEAS—56

Baldwin	Heinrich	Portman
Bennet	Hickenlooper	Reed
Blumenthal	Hirono	Romney
Booker	Kaine	Rosen
Brown	Kelly	Sanders
Burr	King	Schatz
Cantwell	Klobuchar	Schumer
Capito	Leahy	Shaheen
Cardin	Lujan	Sinema
Carper	Manchin	Smith
Casey	Markey	Stabenow
Collins	Menendez	Tester
Coons	Merkley	Van Hollen
Cortez Masto	Murkowski	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Feinstein	Ossoff	Whitehouse
Gillibrand	Padilla	Wyden
Hassan	Peters	

NAYS—42

Barrasso	Graham	Moran
Blackburn	Grassley	Paul
Blunt	Hagerty	Risch
Boozman	Hawley	Rubio
Braun	Hoeven	Sasse
Cassidy	Hyde-Smith	Scott (FL)
Cornyn	Inhofe	Scott (SC)
Cotton	Johnson	Shelby
Cramer	Kennedy	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Toomey
Daines	Lummis	Tuberville
Ernst	Marshall	Wicker
Fischer	McConnell	Young

NOT VOTING—2

Rounds	Tillis
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The nomination was confirmed.

The PRESIDING OFFICER (Mr. PETERS). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 33, Gary Gensler, of Maryland, to be a Member of the Securities and Exchange Commission.

Charles E. Schumer, Patrick J. Leahy, Richard J. Durbin, Christopher A. Coons, Patty Murray, Jeff Merkley, Tammy Baldwin, Elizabeth Warren,

Robert Menendez, Richard Blumenthal, Kirsten E. Gillibrand, Chris Van Hollen, Ron Wyden, Angus S. King, Jr., Robert P. Casey, Jr., Amy Klobuchar, Christopher Murphy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Gary Gensler, of Maryland, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2021, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from South Dakota (Mr. ROUNDS) and the Senator from North Carolina (Mr. TILLIS).

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 147 Ex.]

YEAS—53

Baldwin	Heinrich	Peters
Bennet	Hickenlooper	Reed
Blumenthal	Hirono	Rosen
Booker	Kaine	Sanders
Brown	Kelly	Schatz
Cantwell	King	Schumer
Cardin	Klobuchar	Shaheen
Carper	Leahy	Sinema
Casey	Lujan	Smith
Collins	Lummis	Stabenow
Coons	Manchin	Tester
Cortez Masto	Markey	Van Hollen
Duckworth	Menendez	Warner
Durbin	Merkley	Warnock
Feinstein	Murphy	Warren
Gillibrand	Murray	Whitehouse
Grassley	Ossoff	Wyden
Hassan	Padilla	

NAYS—45

Barrasso	Fischer	Paul
Blackburn	Graham	Portman
Blunt	Hagerty	Risch
Boozman	Hawley	Romney
Braun	Hoeven	Rubio
Burr	Hyde-Smith	Sasse
Capito	Inhofe	Scott (FL)
Cassidy	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	Marshall	Toomey
Cruz	McConnell	Tuberville
Daines	Moran	Wicker
Ernst	Murkowski	Young

NOT VOTING—2

Rounds	Tillis
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The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Gary Gensler, of Maryland, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2021.

The PRESIDING OFFICER. The Senator from New Hampshire.

LEGISLATIVE SESSION

MORNING BUSINESS

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate

proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION REFERRAL

Mr. WARNER. Mr. President, I ask unanimous consent that the attached correspondence be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, April 12, 2021.

Hon. CHARLES E. SCHUMER,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR SCHUMER: Consistent with S. Res. 400 of the 94th Congress, as amended by S. Res. 4, 95th Cong. (1977); S. Res. 445, 108th Cong. (2004); Pub. L. No. 109-177, § 506, 120 Stat. 247 (2006); S. Res. 50, 110th Cong. (2007); and S. Res. 470, 113th Cong. (2014), we request that the nomination of the position of National Cyber Director, as created in Section 1752 of the National Defense Authorization Act for Fiscal Year 2021 (P.L. 116-283), be referred to the Senate Select Committee on Intelligence.

Sincerely,

MARK R. WARNER,
Chairman.
MARCO RUBIO,
Vice Chairman.

TRIBUTE TO JUDGE TOD KAUFMAN

Mr. MANCHIN. Mr. President, I rise today to honor longtime Kanawha County Circuit Judge Tod Kaufman upon his retirement after more than 32 remarkable years of service to the 13th Judicial Circuit.

I have often said there is no greater accomplishment than to find yourself in a position to give back to the community you love. As a Charleston native, Judge Kaufman has served the people of Kanawha County with professionalism, fairmindedness, and great respect from the day he took office in 1988.

Following his undergraduate education, he worked as a paralegal in the Washington, DC, law firm of Covington & Burling and received a law degree from West Virginia University College of Law in 1980. He served a clerkship on the U.S. Tax Court during law school before joining his late father's Charleston law firm of Kaufman & Ratliff in 1980. Prior to his appointment as judge, he served as my colleague in the State legislature and was appointed to the State senate in 1982 by then-Governor Jay Rockefeller and was elected in 1984. Judge Kaufman's lectured internationally at prestigious law schools and conferences and is a former member of the Mass Litigation Panel of the West Virginia Supreme Court and past president and executive officer of the West Virginia Judicial Association.

Shortly after graduating law school, Judge Kaufman tragically lost his par-

ents, former Senator and World War II veteran Paul Kaufman and Rose, and brother, Steven, in a car accident. I know their unflinching love and influence had a tremendous impact on the person he was to become. Both of his parents were extremely active in their community and passionate about many social issues. I will always be personally grateful to them that they passed their work ethic and compassion on to Judge Kaufman, because he has done so much good in our home State due to their influence. In 2011, the 35th Street Bridge over the Kanawha River between the East End and Kanawha City was renamed in their honor, and I am certain they would be so very proud of Judge Kaufman's legacy and personal values.

Throughout the years, Judge Kaufman has witnessed the drastic changes in the judicial landscape. Technology in the courts has played a crucial role, especially with current events as they are, but Judge Kaufman has always promoted the value of interpersonal communication and protecting the humanism in our court processes. He has been fiercely protective of the interests of the people in front of him in the courtroom, acknowledging the heavy responsibility of representing the justice system. He and I served in the State senate together, and in the many years I have called him a friend, Judge Kaufman has never taken his position lightly and has always seen himself primarily as a servant of the people of Kanawha County and of West Virginia. His view of the law is something I will always admire, and I know it has also inspired countless young judges and lawyers.

I will always be grateful to Judge Kaufman for his years of friendship and our shared passion for serving the people of West Virginia. While he is retiring and everyone is sure to miss his strong leadership, Judge Kaufman's unwavering dedication will leave a lasting legacy with the countless lives he has touched. Again, I congratulate him for his remarkable years of service, and I am honored to wish good health and much happiness to Judge Kaufman, his wife Barrie, and their daughters, Paula, Caroline, and Sophia, in the days and years ahead.

ADDITIONAL STATEMENTS

REMEMBERING DR. DAVID C. WHERRY

• Mrs. FISCHER. Mr. President, I would like to take a moment to recognize the remarkable life of Dr. David Wherry.

Born in Pawnee City, NE, he was the son of the former Nebraska Senator Kenneth S. Wherry, who served as the minority leader here in the U.S. Senate.

Dr. Wherry attended Doane College in Crete, NE, before enrolling at the U.S. Naval Academy.

He then chose to go into the medical profession.

Little did he know the major impact he would have in this field.

After graduating from George Washington University with his medical degree and completing his surgical training, he was commissioned as a Medical Corps officer in the U.S. Air Force.

He then moved overseas for his residency, taking a position as a surgical doctor at the 7559th USAF Hospital in Burtonwood, United Kingdom.

He spent more than 2 years there before returning to the United States to become a teacher at George Washington University and later also at Georgetown University.

After years of teaching, Dr. Wherry returned to Active Duty during Operation Desert Storm and retired in 1993 as a colonel.

Following his years of service to our country, he returned to teaching and academic research.

Dr. Wherry became renowned in the medical world as a leading innovator in minimally invasive surgery, such as laparoscopic cholecystectomy on the gallbladder.

In his research in this area, he published over 50 manuscripts, 3 book chapters, and produced 2 films.

Additionally, he helped found laparoscopic cholecystectomy courses for servicemembers and trained thousands of military surgeons.

I want to note that Dr. Wherry was one of the first doctors in the United States to perform colonoscopies, making him a leading expert in this procedure that is performed on so many Americans and is vital in helping to detect and catch diseases like colon cancer.

International work was important to him, and he was successful in helping bring humanitarian aid to hospitals in the Philippines.

He also collaborated with the Uniformed Services University of the Health Sciences, USUHS, and with the University of the Philippines/Philippine General Hospital in bringing surgical residents to do scientific research at USUHS as well as arranged exchanges between medical students for training purposes.

He wanted to share and expand on his work by collaborating with others, so he helped found the Society of American Gastrointestinal Endoscopic Surgeons.

He was a member of the Société Internationale de Chirurgie and International Biliary Association.

On top of all of these efforts, he continued to be a senior surgical consultant to the medical division of the U.S. Department of State.

His work and dedication to improving surgeries around the world and for our military men and women has been recognized by the State Department and the Department of Defense.

Both agencies presented him with their Meritorious Honor Award.

In addition to his place as a leader in the medical world, he was also a dedicated husband and father.